**Editor's note: Reconsideration denied by order dated March 18, 1977; Appealed – aff'd, Civ. No. 77-234-B (D.N.M.), aff'd, No. 78-1050 (10th Cir. Sept. 20, 1978)**

MILDRED A. MOSS, ET AL.

IBLA 77-47 Decided February 3, 1977

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting first drawn offer for oil and gas lease, NM 28634.

Affirmed.

1. Oil and Gas Leases: Applications: Sole Party in Interest

   An oil and gas lease offer filed on a simultaneous filing drawing entry card must be rejected if it contains the names of additional parties in interest and, within 15 days of the filing, the offeror fails to submit a statement of his interest and a copy of agreements between him and the other offerors.

APPEARANCES: James J. Hultgren, Esq., Hultgren, Jewell & Kolb, Dallas, Texas, for appellants.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Mildred E. Moss and others appeal from the October 12, 1976, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting appellant's oil and gas lease offer for a parcel of land in New Mexico. Appellant's offer for parcel number NM 912 was drawn first at a public drawing on August 6, 1976. However, the BLM rejected the offer for failure of the offeror, Mildred E. Moss, to supply within 15 days information pertaining to her interest in the lease and to any agreements she might have with the other offerors, as required by 43 CFR 3102.7. That regulation requires the filing of:

> [a] signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued: if not he shall set forth the names of the other interested parties. If there are other parties interested in the offer a separate statement must be signed by them and by the offeror, setting forth the nature and extent of the interest of each in the offer, the nature of the agreement between them if oral, and a copy of such agreement if written. All interested parties must furnish evidence of their qualifications to hold such lease interest. Such separate statement and written agreement, if any, must be filed not later than 15 days after the filing of the lease offer. Failure to file the statement and written agreement within the time allowed will result in the cancellation of any lease that may have been issued pursuant to the offer. Upon execution of the lease the first year's rental will be earned and deposited in the U.S. Treasury and will not be returnable even though the lease is canceled. [Emphasis added.]

While the other four interested parties did file such statements, Mildred Moss did not do so. There is no declaration by the offeror of what her interest is or what her agreements are with her four joint offerors. 1/

Appellants argue that all four separate agreements be read together as one contract. Thus, they contend, the need for an additional statement by Mildred Moss is eliminated, presumably by implication. That reasoning is not cogent. The obvious object in requiring a separate statement of each party's interest is to assure that those assertions total precisely 100 percent. The Bureau may not infer the amount which would have been declared in the missing statement, for two reasons.

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1/ Appellant's brief does suggest that Mildred Moss' interest would be 20 percent. However, such information can only "cure" defects in lease offers to the extent that the rights of other parties have not intervened. Because the offers in this case are simultaneous offers, by definition, the rights of others have intervened to the extent that they are found to be qualified offerors. Therefore, the additional information cannot be considered. Harry Reich, 27 IBLA 123, 129 (1976); Mountain Fuel Supply Co., 13 IBLA 85 (1973).

[1, 2] First, the Department has held many times that the requirements of the regulation are mandatory and that failure to comply with them must necessarily result in the rejection of the lease offer. Walter H. Anderson, 27 IBLA 253, 254 (1976); Emily Sonnek, 21 IBLA 245 (1975); 17 IBLA 84 (1974); Melvyn Kegler, 13 IBLA 265 (1973); Richard Hubbard, 2 IBLA 270, 78 I.D. 170 (1971); Richard C. Cook, 73 I.D. 145 (1966). It is a truism of public land law that the risk of error in making offers to lease public lands is on the offeror, not on the taxpayer. In that context we have stated:

> * * * in most BLM state offices simultaneous filings of noncompetitive oil and gas lease offers are held each month, and some offices regularly process more than 10,000 offers in a single filing for several hundred leases. Processing this volume of offers, conducting the drawings, adjudicating the results, issuing the leases, and preparing the lists of lands for the next month's drawings places a difficult task on BLM employees, and expeditious handling is essential to timely completion of the operation. The requirement of which appellant complains is reasonably calculated to facilitate the orderly handling of such offers. See Mountain Fuel Supply Co., 13 IBLA 85, 87 (1973). As the Court of Appeals for the District of Columbia noted in a case involving drawings for noncompetitive leases:
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> > The history of the administration of the statute furnishes compelling proof * * * that the human animal has not changed, that when you determine to give something away, you are going to draw a crowd. It is the Secretary's job to manage the crowd while complying with the requirement of the Act.

Thor-Westcliffe Development, Inc. v. Udall, 314 F.2d 257, 260 (D.C. Cir. 1963); Ballard E. Spencer Trust, 18 IBLA 25, 26-27 (1974), aff'd Civ. No. 75-060 (D.N.M. August 17, 1975). 2/

The second principal reason the offer must be rejected is that even if we take appellant's suggestion that all four of the other offeror's statements be read as one document, that agreement would nowhere state what interest Mildred Moss has vis-a-vis the other

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2/ Appeal docketed, November 19, 1975.

offerors. Both the drawing entry card and the additional statements indicate that each of the other four joint offerors is to receive a 20-percent interest in the application. None of the documents show any indication of the percentum or nature of the interest to be received by Mildred Moss, or the nature of whatever agreements she may have with the other offerors. A not unreasonable guess might be that Mildred Moss is to receive a 20-percent interest in the application, in the same manner as the other offerors. However, BLM employees are not authorized to guess at the meaning of ambiguous agreements or to "fill in the blanks" of deficient oil and gas lease offers. Mountain Fuel Supply Co., supra. To do so would deprive the first qualified offeror (that is, a subsequently drawn entry, correctly completed) of his right to the lease and, therefore, is not permissible. Harry Reich, 27 IBLA 123, 129 (1976); Mountain Fuel Supply Co., supra.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Edward W. Stuebing
Administrative Judge

We concur:

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Anne Poindexter Lewis
Administrative Judge

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Joan B. Thompson
Administrative Judge